

## **REMARKS/ARGUMENTS**

Claims 68-91 are currently pending in the present patent application. Claim 68 is amended. Claims 87-91 are new. In view of at least the following, all currently pending claims are in condition for allowance, and, therefore, the Applicants' attorney requests that the Examiner withdraw all outstanding rejections. ***However, if after considering this response the Examiner does not allow all of the claims, the Applicants' attorney requests that the Examiner contact him to schedule a telephone interview to further the prosecution of this application.***

### **Rejection of claims 68 and 69-86 under 35 U.S.C. § 112, Second Paragraph**

On page 2 of the instant Office Action, the Examiner asserts that the phrase "providing information on how to qualify for a license" is not used or clearly defined in the specification. Applicants' attorney respectfully traverses the rejection. First, Applicants' attorney notes that the phrase was recited verbatim by claim 68 in the present application as originally filed, and therefore is by definition part of the specification. Moreover, paragraph [0060] provides:

*If at the decision state 550 the player interface 122 determines that the presentation 126 is subject to a license but that the rights broker 142 has not granted the license, the process 500 moves to a state 560. At the state 560 the player interface 122 communicates to the consumer computer 120 (or its associated end-user) different options to gain access to the presentation 126. . . . In yet another embodiment, the player interface 122 provides the consumer computer 120 with one or more license purchasing options for accessing the presentation 126.*

One of ordinary skill in the art will appreciate that this description discloses "providing information on how to qualify for a license" after determining that none of a plurality of licenses authorizes the requested use of the digital content.

Applicants' attorney respectfully requests that the Examiner withdraw the respective rejections accordingly.

**Rejection of claims 68 and 69-86 under 35 U.S.C. § 101 as being directed to Non-statutory Subject Matter**

Claim 68 has been amended to overcome the rejection, and Applicants' attorney respectfully requests that the Examiner withdraw the respective rejections accordingly.

**Rejection of claims 68-72, 74 and 77-86 under 35 U.S.C. § 102(e) as being Anticipated by Spagna et al. (U.S. Patent No. 6,587,837 B1, "Spagna")**

**Claim 68**

Claim 68 recites receiving a request to use digital content, determining whether or not at least one of a plurality of licenses authorizes the requested use of the content, allowing the requested use of the content if at least one of the plurality of licenses authorizes the requested use of the content, and providing information on how to qualify for a license if none of the plurality of licenses authorizes the use.

Referring, *e.g.*, to FIG. 5 and paragraphs 59-61 of the patent application, in an embodiment, after it has been determined that none of a plurality of licenses authorize a requested use of digital content, a user who has made the request to use the content is provided with information on how to qualify for a license. The information on how to qualify for the license may indicate, for example, an attribute that the user must have before the user may obtain a license that authorizes the requested use, or, as another example, the option may indicate an amount of money that the user must pay before the user may obtain a license that authorizes the requested use.

In contrast, Spagna does not disclose providing information on how to qualify for a license if none of a plurality of licenses authorizes the use. On pages 2 and 4 of the instant Office Action, the Examiner cites column 6 lines 35-39, column 14 lines 1-47, and column 21 lines 38-49 for the proposition that Spagna discloses such information. With respect, this is incorrect. Column 6 lines 35-39 discloses that electronic stores may be coupled to a network in order to sell licenses to allow users to play digital content data, and that content players may be used to play such licensed content after receiving it from the network. There is no disclosure within the citation to support providing information on how to qualify for a license if none of a plurality of licenses authorizes a requested use of the licensed content. Column 14 lines 1-47 disclose a clearinghouse 105 which provides licensing authorization and record keeping for all transactions related to permitted uses of digital content, but does not disclose providing information on how to qualify for a license if none of a plurality of licenses authorizes a requested use of the content. At best, column 14 lines 17-19 provide that “[i]f the End-User’s request [sic] is not verifiable, complete, or authorized, the Clearinghouse(s) 105 repudiates the request for the decryption key.” Finally, column 21 lines 38-49 disclose that when an end user wishes to buy content, they click on a content icon to have the content added to the user’s electronic shopping cart; when finished shopping, the user submits the contents of the shopping cart for payment processing through a conventional credit card clearing organization. None of these citations illustrate providing to a user, after determining that none of a plurality of licenses authorizes a use of digital content as requested, information on how to qualify for a license. In fact, after reviewing the entirety of the Spagna reference, Applicants’ attorney is unable to locate any instance of Spagna providing information on how to qualify for a license if none of a plurality of licenses authorizes the requested use.

Spagna does not satisfy the limitations of claim 68, and Applicants’ attorney respectfully requests that the Examiner withdraw the rejection accordingly.

### **Claims 69-72, 74 and 77-86**

These claims are patentable at least by virtue of their respective dependencies from claim 68.

### **Rejection of claims 73 and 75-76 under 35 U.S.C. § 103(a) as being Unpatentable over Spagna in view of Eichstaedt et al. (U.S. 6,108,645)**

### **Claims 73 and 75-76**

These claims are patentable at least by virtue of their respective dependencies from claim 68.

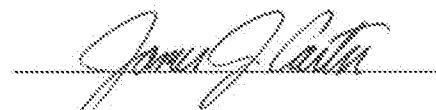
## **Conclusion**

The absence of additional patentability arguments should not be construed as either a disclaimer of such arguments or that such arguments are not believed to be meritorious. In light of at least the reasons discussed herein, existing claims 69-86, amended claim 68 and new claims 87-91 are in condition for allowance. Favorable consideration and a Notice of Allowance are respectfully requested. Should the Examiner have any further questions about the application, Applicant respectfully requests the Examiner to contact the undersigned attorney at (425) 455-5575 to resolve the matter.

In the event additional fees are due as a result of this amendment, you are hereby authorized to charge such payment to Deposit Account No. 07-1897.

Respectfully submitted,

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